

Washington, D.C. 20505

6 MAR 1978

OMB

Honorable James T. McIntyre, Acting Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. McIntyre:

I am writing in response to the views expressed by the Department of Health, Education and Welfare concerning the proposed report of the Central Intelligence Agency on S. 1893, a bill "To amend the Public Health Service Act to establish a President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, and for other purposes."

In this Agency's proposed report, I raised several problems relating to the bill's procedures for handling sensitive information. In particular, I stated that the new section 1811(c)(2) of the Public Health Service Act proposed by the bill must be amended to protect against unauthorized disclosure by the Commission of "information protected from disclosure by statute." This amendment would make it clear that intelligence sources and methods may not be disclosed by the Commission. I also asked that the bill be amended so as to subject experts, consultants and contractors hired by the Commission to the same security requirements as the Commission, and that the Human Investigation Review Boards established under proposed section 1805(a) be prohibited from disclosing classified information or information protected from disclosure by statute.

The Department of Health, Education and Welfare has objected to these proposals on several grounds. The Department contends that the proposed amendments, unless they would pertain solely to the Central Intelligence Agency, could undermine the credibility of the Department's research review procedure. I hasten to point out that the proposed amendments deal only with access to or disclosure of classified information or information protected from disclosure by statute. The impact on the Department of Health, Education and Welfare of these restrictions would appear to be minimal at most. Further, assuming the Department of Health, Education and Welfare would be dealing with these types of information, the proposed amendments seek only to apply the restrictions already applicable to classified information under Executive Order 11652 or to prevent the disclosure of information which Congress has already deemed worthy of protection.

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In addition, the Department of Health, Education and Welfare contends that, because the Human Investigation Review Boards are composed of non-Federal volunteers, they could not be permitted to review information relating to national security and be expected to treat it in a confidential manner. This certainly is not the case. The Intelligence Oversight Board, for example, established by Executive Order 12036, is comprised of persons from outside the Government; the Board has access to sensitive information and is required to treat it confidentially. This same was true of the President's Foreign Intelligence Advisory Board. Also, Government contractors are routinely required to conform to security procedures.

This Agency in no way seeks to frustrate the purposes or activities of the proposed Human Investigations Review Boards. The Central Intelligence Agency, however, cannot turn over the types of information discussed above to persons who do not possess the necessary security clearances. Failure to recognize this in the legislation would force this Agency not to deal with the Boards.

The Department also objects to the proposed report because the Department currently is considering alternative approaches for assuring uniform Federal research safeguards. It may well be that the Department will develop a program which the Central Intelligence Agency can wholeheartedly support. S. 1893 is, however, currently moving forward in the Senate, and I believe that it is necessary to raise these important problems so that they may be addressed as S. 1893 moves through the legislative process.

I must, therefore, again request that the Office of Management and Budget concur in the submission of the proposed report of the Central Intelligence Agency.

Yours sincerely,

SIGNED

STANSFIELD TURNER

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